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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, NOVEMBER 13, 2002

PETITION OF

WASHINGTON GAS LIGHT COMPANY

CASE NO. PUE-2002-00178

For approval of a plan to  
remedy billing errors

ORDER ON STIPULATION

On March 25, 2002, pursuant to 5 VAC 5-20-100 B of the Commission's Rules of Practice and Procedure ("Rules"), Washington Gas Light Company ("Washington Gas" or "Company") filed a Petition for approval of "certain aspects" of its plan to remedy billing errors. Washington Gas requested that the Commission approve its plan to use an annual leak survey program to identify customers who have been billed incorrectly. According to the Company, the billing errors resulted from an inconsistency between the delivery pressure of gas reflected in the Company's billing system and the actual delivery pressure to certain of its customers in Virginia and resulted in overcharges in some cases and undercharges in others which the Company discovered in March 2001.

By Order dated April 10, 2002, the Commission docketed the matter; determined that the matter should be treated as an Application pursuant to 5 VAC 5-20-80 A of the Commission's Rules; assigned the matter to a Hearing Examiner; and directed any interested party and the Commission's Staff to file with the Commission by May 10, 2002, a responsive pleading to the Application or a request for hearing or both. The Company was also directed to provide public notice of its Application.

On May 3, 2002, Washington Gas filed proof of notice required by the April 10, 2002, Order.

By Hearing Examiner's Rulings dated May 9, 2002, and May 23, 2002, the deadline for interested parties to file responsive pleadings was extended to May 24, 2002, and then to June 21, 2002.

On June 21, 2002, Washington Gas filed a Joint Stipulation ("Stipulation"), which it stated resolved all issues related to the remediation of billing errors. Washington Gas represented that the Staff, Division of Consumer Counsel of the Office of the Attorney General ("Attorney General"), and Washington Gas Energy Services, Inc., agreed to the Stipulation. In addition, Washington Gas represented that the Arlington County Citizen and Consumer Affairs Office ("Arlington County") and the Fairfax County Consumer Protection Division ("Fairfax County") would support the Stipulation before their respective County Boards of Supervisors.

The salient features of the Stipulation include as follows:

(1) Washington Gas will make refunds for overcharges on bills rendered beginning March 1996, or the date the customer commenced service, whichever is later, and ending on the date the billing for the customer is corrected.

(2) Washington Gas may collect from customers who were under-billed during the one-year period preceding the date the billing is corrected, or for a period beginning when the customer commenced service, whichever period is lesser.

(3) Washington Gas may use its annual leak survey program to identify customers who were incorrectly billed as a result of the improper application, or failure to apply, the 2-psi billing adjustment factor.

(4) For customers who received gas through a supplier other than Washington Gas, the portion of the bill owed to Washington Gas will be recalculated based on the Company's delivery charge, and the "commodity" charge also will be recalculated to determine whether Washington gas caused the supplier to incorrectly charge for gas. The Company will work with each supplier to reconcile any amount over- or under-billed. Washington Gas will then refund or re-bill these amounts on the Washington Gas portion of the bill.

Also on June 21, 2002, the Attorney General filed comments in favor of the Stipulation, but also requested a public hearing for affected current and former customers to present their individual views to the Commission. A Hearing Examiner's Ruling scheduled public hearings for September 9, 2002, at 2:00 p.m. and 7:00 p.m. at the Fairfax County Judicial Center, and directed the Company to provide public notice of the hearings.

In a letter dated June 28, 2002, Pepco Energy Services, Inc., stated that it did not execute the Stipulation because of concerns that under the provisions of 20 VAC 5-312-90 H, which governs the assignment of customer payments when a customer makes a partial payment, under-billed errors of Washington Gas will have a higher payment priority than the services provided by competitive suppliers.

In a Hearing Examiner's Ruling dated August 20, 2002, Washington Gas was granted leave to amend the Stipulation to add a signature line for Fairfax County, since the Board of Supervisors of Fairfax County approved the Stipulation at its July 22, 2002, meeting.

On September 6, 2002, Washington Gas filed proof of notice for the September 9, 2002, public hearings.

On September 9, 2002, public hearings were convened as scheduled at the Fairfax County Judicial Center. No public witnesses offered testimony at either the 2:00 p.m. hearing or

the 7:00 p.m. hearing. During the 2:00 p.m. hearing, a letter was received from Mike Kilgore in which he questioned the safety of gas service provided by the Company. Mr. Kilgore also recommended that Washington Gas pay all over-billed customers from shareholder funds and not be allowed to collect any money from under-billed customers. The September 9, 2002, public hearings, especially the 2:00 p.m. hearing, also served as the evidentiary hearing in this matter. Representing Washington Gas was Donald R. Hayes, Esquire, and Douglas Pope, Esquire. Dennis R. Bates, Esquire, appeared on behalf of Fairfax County. Charles Wood appeared on behalf of Arlington County. Christy A. McCormick, Esquire, appeared on behalf of the Attorney General. Katharine A. Hart, Esquire, and Allison L. Held, Esquire, represented the Staff.

At the public hearing, counsel for Washington Gas presented the Stipulation and addressed two issues. The first was the issue of partial payment priorities addressed in Paragraph 7 of the Stipulation. Counsel for Washington Gas explained that under the Stipulation, charges billed to a customer who was under-billed due to the billing error will be treated as current charges of the local distribution company for purposes of 20 VAC 5-312-90 H. Thus, such charges would have priority over current charges of competitive service providers. The second issue was whether the billing error provides any indication that there is a related safety or delivery pressure problem. Counsel for Washington Gas affirmed that the billing errors were strictly a billing coding problem, not a safety or delivery pressure problem. The Company also asserted during the hearing that it will focus on collecting the undercharges from existing customers, but stated that if a customer should call the Company to determine whether he or she has been overcharged or undercharged, Washington Gas may use that information to collect undercharges from that customer. Counsel for the Company noted, however, that there will not be any organized means of identifying former customers.

On October 11, 2002, the Hearing Examiner issued his Report. In his Report, the Examiner found that the Commission is not required to resolve any issues that may arise concerning partial payment priorities because Paragraph 7 of the Stipulation does not explicitly address partial payment priorities. He recommended that the Commission encourage the Company and competitive services providers (“CSPs”) to work through any issues that may arise concerning partial payments. He also stated that he could not find anything in the record that remotely suggests that the billing problem in this case is related in any way to a safety or delivery pressure problem. The Examiner therefore found that the Stipulation offers a reasonable and just resolution to all of the issues in this case, and that it should be adopted.

The Examiner recommended that the Commission enter an order that adopts the findings in his Report, approves the Stipulation, and dismisses the case from the Commission’s docket of active matters.

On October 31, 2002, the Fairfax County Board of Supervisors filed comments on the Report. In its comments, the Fairfax County Board of Supervisors endorses the Report and requests that the Commission approve the Stipulation and hold open the record of this proceeding until the Company presents evidence that the billing errors are corrected and that refunds of overcharges and collection of undercharges have been completed.

On November 1, 2002, Washington Gas filed its comments on the Report. In its comments, the Company noted that the Stipulation received broad support, including from the Company, the Staff of the Commission, the Office of the Attorney General, the Board of Supervisors of Fairfax County and by Washington Gas Energy Service, Inc., and that no public witness offered testimony at either of the two public hearings that were held on September 9, 2002. Washington Gas also discussed the concern expressed by Pepco Energy Services, Inc.,

relating to the application of payments when a customer makes a partial payment of charges appearing on a consolidated bill. The Company stated that in accordance with the recommendation in the Report if it is adopted by the Commission, Washington Gas will work with CSPs to attempt to resolve any issues that may arise concerning the treatment of partial payments. The Company urged the Commission to adopt the recommendations in the Report at its earliest convenience so that the Company can begin implementing the terms of the Stipulation.

NOW THE COMMISSION, having considered the record, the Company's Application, the Stipulation, the Hearing Examiner's Report and the comments thereto, and the applicable law, finds as follows. We commend the parties to the Stipulation for working diligently to achieve resolution to the billing problem. We accept the Stipulation with one modification. Section 1 of the Stipulation requires refunds to former customers "who can present evidence and demonstrate to the satisfaction of Washington Gas that they were a customer of record in a premises that has been identified as having been affected by the 2-psi billing adjustment matter." We modify this procedure in that Washington Gas shall provide written notice to former customers, at the last known address from the Company's records, who the Company determines are entitled to a refund under the terms of the Stipulation.<sup>1</sup> This notice requirement shall only apply where the refund amount is greater than \$1.00 and shall state the amount of the refund due. Such notice also shall require the former customers to respond to the Company, in writing within 90 days from the date of the letter, and confirm that they were a customer of record in the premises identified as having been affected by the 2-psi billing adjustment matter.

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<sup>1</sup> We note that Section 2 of the Stipulation permits Washington Gas to collect undercharges from former customers who are identified as having been customers of record in a premises affected by the 2-psi billing problem during the time period described in the Stipulation.

Section 10 of the Joint Stipulation conditions its proffer upon approval by the Commission of its terms in their entirety. We recognize that the modification required above changes the terms of the Stipulation, and therefore require all signatories to the Stipulation to agree to its incorporation before the Commission can issue a final order. If the modification herein is agreed to by all parties to the Stipulation, the Commission subsequently will issue an order adopting the Stipulation as modified. If the modification is not accepted by all parties to the Stipulation, the Commission subsequently will issue an order establishing further proceedings consistent with the Company's Application.

Accordingly, IT IS ORDERED THAT:

(1) The parties to the Stipulation shall file notice with the Commission no later than December 11, 2002, stating whether the modification discussed herein is acceptable.

(2) This case shall be continued generally for further orders of the Commission.